

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

RAMON ROBLEDO GARCIA

§

§

v.

§

C.A. NO. C-06-58

§

INMATE TRUST FUND, ET AL.

§

**ORDER GRANTING DEFENDANT'S RULE 7(a) MOTION**

This is a civil rights action filed by a prisoner pursuant to 42 U.S.C. § 1983. Defendant Margaret Ortiz's motion for a Rule 7(a) reply is pending. (D.E. 56).

Specifically, defendant Ortiz argues that plaintiff has failed to provide specific information regarding the incident involving her. (D.E. 56, at 1). She argues that a reply to her answer is appropriate pursuant to Rule 7 of the Federal Rules of Civil Procedure. Id. at 3; see also Fed. R. Civ. P. 7(a). She lists eleven questions that she believes will provide the specific information she needs.

In his complaint and at his Spears hearing, plaintiff asserts that Officer Ortiz, a female guard assigned to the Garza East kitchen, violated his constitutional rights when she forced him to pull the foreskin back on his penis to see if he was attempting to smuggle items out of the kitchen. Plaintiff claims that, although male guards conducted the actual physical search, she watched him during the search. (D.E. 40, at 3-4).


The information provided by plaintiff addresses some of defendant Ortiz's questions. Nonetheless, the Fifth Circuit has established a two-step procedure for pleading these types of actions with the second step involving a more particularized reply. See Schulte v. Wood, 47 F.3d 1427, 1433-34 (5th Cir. 1995) (en banc); Todd v. Hawk, 72 F.3d 443, 446 (5th Cir. 1995) (per curiam). Accordingly, plaintiff is ORDERED to answer the following questions to the best of his

memory:

1. On approximately what date did the alleged strip search occur?
2. Where exactly did the strip search occur?
3. How many people were present during the strip search? Please identify the names of all people who were present for the strip search and state whether they are inmates or correctional officers.
4. Why was the strip search conducted? Describe the strip search, including whether there was any touching.
5. Who actually performed the strip search?
6. How close to plaintiff was defendant Ortiz when the strip search was conducted?
7. What was defendant Ortiz's role in the strip search?
8. Did defendant Ortiz visually inspect your genitals?
9. Did defendant Ortiz touch you during the strip search?

Accordingly, defendant Margaret Ortiz's motion for a Rule 7(a) reply, (D.E. 56), is GRANTED consistent with the questions provided in this order. Plaintiff is ORDERED to provide the responses to these nine questions no later than Monday, October 2, 2006.

ORDERED this 1st day of September 2006.

  
BRIAN L. OWSLEY  
UNITED STATES MAGISTRATE JUDGE